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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,994	03/30/2004	Blake Mynatt	P00822-US1	6076
3017	7590	08/09/2004	EXAMINER	
BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR PROVIDENCE, RI 02903			PETKOVSEK, DANIEL J	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/813,994

Applicant(s)

MYNATT ET AL.

Examiner

Daniel J Petkovsek

8/14/04

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/21/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

This application is a divisional of 10/011,685, filed December 4, 2001, which is now U.S.P. No. 6,755,578, which claims benefit of 60/254,420, filed December 8, 2000.

#### ***Information Disclosure Statement***

1. The prior art documents submitted by Applicant in the Information Disclosure Statements filed on June 21, 2004, have been considered and made of record (note attached copy of forms PTO-1449).

#### ***Specification***

2. The abstract of the disclosure is objected to because the abstract does not describe the new invention as claimed in this divisional application. Correction is required that more fully describes the sealing feature that is currently under examination. See MPEP § 608.01(b).

#### ***Claim Objections***

3. Claim 6 is objected to because of the following informalities: "said cross-sectional area" lacks antecedent basis, since there are 2 cross-sectional areas in claim 1. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Milanowski et al. U.S.P. No. 6,201,922:

Milanowski et al. U.S.P. No. 6,201,922 teaches (Fig. 5 and 6, column 6, lines 9-52) a sealing feature for a multiple piece housing for an optoelectronic device, the sealing feature having a cross section (any cross sectional view) in which the channel varies intermittently, and is capable of receiving a gasket 8 having a substantially constant cross-sectional area (any possible cross section), which clearly, fully meets Applicant's *claimed limitations*. Regarding claims 2 and 3, minimal areas 26 and 27 (and even sidewalls could be construed as minima) tightly secure the gasket 8, and substantially at the minimum points. Regarding claim 4, the housing is fastened together to hold. Regarding claim 5, 26 can act as a tongue and minimal areas can be sidewalls (minimum relative to open area 24). Regarding claim 6, the cross section can vary regularly. Regarding independent claim 7, Milanowski et al. '922 creates a corrugated/ridged channel.

6. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer U.S.P. No. 5,495,364.

Palmer U.S.P. No. 5,495,364 teaches (Figs. 3A, 3B, column 5, line 31 through column 6, line 42) a sealing feature for a multiple piece housing for optoelectronic devices, said sealing feature including a channel having a varying cross-sectional area (any possible cross-section, since shape is not flat) and capable of receiving gasket having a substantially constant cross-sectional area, which clearly, fully meets Applicant claimed limitations. Regarding claims 2 and 6, press 46 has a plurality of minimum points, and a cross section can vary regularly. Regarding independent claim 7, the art of Palmer '364 is corrugated/ridged to create the pressing feature.

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***Inventorship***

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, with respect to the state of the art of sealing features for opto-electronic devices: PTO-892 form references B and D.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J Petkovsek whose telephone number is (571) 272-2355. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Petkovsek  
August 4, 2004



Akim E. Ullah  
Primary Examiner